Commonwealth of Kentucky
Supreme Court

No. 2015-SC-000235

JEFFREY W. MURPHY — **APPELLANT**

v.

Appeal from Boone Circuit Court
Hon. James R. Schrand, Judge
Indictment No. 13-CR-190

COMMONWEALTH OF KENTUCKY — **APPELLEE**

Brief for Commonwealth

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CERTIFICATE OF SERVICE

I certify that the record on appeal has been returned to the Clerk of this Court and that a copy of the Brief for Commonwealth has been served January 15, 2016 as follows: by mailing to the trial judge, Hon. James R. Schrand, Judge, Boone County Justice Center, 6025 Rogers Lane, Suite 447, Burlington, KY 41005-8151; by sending electronic mail to Hon. Linda Smith, Commonwealth Attorney; and by delivery through Kentucky Messenger Mail to Hon. Susan Jackson Balliet, Assistant Public Advocate, Department for Public Advocacy, 5 Mill Creek Park, Section 100, Frankfort, KY 40601.

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INTRODUCTION

The Appellant conditionally pled guilty to failure to comply with sex offender registry laws and was sentenced to one year. The Court of Appeals affirmed and this Court granted discretionary review.

STATEMENT REGARDING ORAL ARGUMENT

The Commonwealth believes that the issues raised on appeal may be adequately addressed by the parties' briefs. The Commonwealth does not request oral argument.

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COUNTERSTATEMENT OF THE CASE

In 2009 Appellant was 17 years old when adjudicated in a Michigan delinquency proceeding as having committed the offense of criminal sexual conduct in the third degree.[1] He was required to register as a sex offender under Michigan law. When he moved to Kentucky he registered as a sex offender but was later indicted for failing to notify authorities of a change of address. He conditionally pled guilty after moving to dismiss the indictment on the ground that he was never required to register in Kentucky. This brief cites to Michigan statutory law in effect in 2009.[2]

Michigan originally charged Appellant on two counts of criminal sexual conduct in the first degree under Mich. Stat. § 750.520b(1)(a). That statute made unlawful the sexual penetration of another person under 13 years of age and carried a potential penalty of life imprisonment. Mich.Stat. § 750.720b(2)(a) The prosecutor dismissed those charges and Appellant admitted having engaged in one count of criminal sexual conduct in the third

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[1] The Michigan Order of Adjudication listed Appellant's date of birth as November 1, 1992, the date of the petition as August 5, 2009, and the date of adjudication as November 3, 2009. TR 30 (see Appendix).

[2] The Commonwealth has attached a copy of 2007 Mich. Legis. Serv. Public Act 163 (West) which shows the relevant statutory law in effect in 2009. The Commonwealth has also attached copies of the current versions of Mich. Stat. §§ 750.520b and 750.520d in order to show the legislative history of those statutes.

degree, a violation of Mich.Stat. § 750.720d.[3]. Appellant admitted he violated subsection (1)(c) of the statute which made unlawful the sexual penetration of another person between the ages of 13 and 16 if the offender knew or had reason to know the victim was "mentally incapable, mentally incapacitated, or physically helpless." Criminal sexual conduct in the third degree is a felony punishable by up to 15 years imprisonment. Mich.Stat. § 750.720d(2).

Appellant then registered as a sex offender in Michigan pursuant to Michigan law. He later moved to Kentucky and signed the Kentucky Sex Offender form October 27, 2011. He was arrested and indicted in 2013 for failing to register the address of his current residence. TR 4-7, 15.

Appellant moved to dismiss the indictment, arguing he was never required to register in Kentucky because KRS 17.510(6) required a person be "convicted" before he or she had to register in Kentucky and a juvenile adjudication was not a conviction. TR 25-35 (including the Michigan adjudication order at 30-32). The Commonwealth objected. TR 41-44. The trial court overruled the motion and held that a different section, KRS 17.510(7), required registration because it applied to those required to register "under the laws of another state." TR 51-52 (in Appendix).

With the agreement of the Commonwealth, Appellant conditionally

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[3] The Order refers to "750.720B(1)c" instead of "750.720D(1)(c)" but this is an obvious scrivener's error since 720B would be an offense in the first degree, rather than an offense in the third degree.

pled guilty and was sentenced to one year in prison. TR 61-62 (plea agreement); TR 72-74 (Amended Final Judgment). The Court of Appeals affirmed in *Murphy v. Commonwealth*, No. 2013-CA-001517-MR, 2015 WL 1880690 (Ky.App. Apr. 24, 2015). The Commonwealth agreed with Appellant that this appeal merited discretionary review and this Court then accepted review.

ARGUMENT

I. The clear and unambiguous language of the Kentucky Sex Offender Act requires registration in Kentucky for those required to register under federal law or the laws of another state. Any perceived conflict with KRS 635.040 must be resolved in favor of requiring registration.

The only issue before the Court is the interpretation and application of statutes. This is a matter of law which this Court reviews *de novo*. *Commonwealth v. Johnson*, 423 S.W.3d 718, 720 (Ky. 2014).

A. The plain language of the registration statutes do not require there be a conviction in order to trigger the duty to register in Kentucky.

Following the pathway to the correct interpretation of a statue is like following the Yellow Brick Road to Emerald City: "It is always best to start at

the beginning."[4] Accordingly, "We begin, as we must, with the plain language of the statute." *Wilson v. City of Cent. City*, 372 S.W.3d 863, 867 (Ky. 2012) (citation omitted). The Kentucky Sex Offender Act (KSORA) defines the term "registrant:"

> (5) "Registrant" means:
>
> (a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:
>
> 1. A sex crime; or
>
> 2. A criminal offense against a victim who is a minor; or
>
> (b) Any person required to register under KRS 17.510; or
>
> (c) Any sexually violent predator; or
>
> (d) Any person whose sexual offense has been diverted pursuant to KRS 533.250, until the diversionary period is successfully completed; ...

KRS 17.500(5).

Appellant proceeds upon a flawed primary premise. Appellant incorrectly states that subsection (5) "defines 'registrant' to include only those who were convicted of a qualifying offense." Brief for Appellant, p. 5. Only subsection (a) of the definition specifically requires that a person commit a

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[4] Glinda, the Good Witch of the North, *The Wizard of Oz*, Directed by Victor Fleming; MGM, 1939.

crime, either a "sex crime" or a "criminal offense against a minor."[5] It does not even specifically use the term *conviction*.[6]

Subsections (b), (c), and (d) do **not** specifically require a person commit a crime and neither do they mention the term *conviction*. Indeed, subsection(c) expressly includes those **not** necessarily convicted of a crime because the term"sexually violent predator" is defined as one "who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme .... " KRS 17.500(10). While civil commitment is not at issue here, the provision for registration of one committed as a sexually violent predator underscores the fact that the registration system is not triggered solely by criminal convictions.

Similarly, under subsection (d), a registrant includes one on pretrial diversion for a sexual offense until the person successfully completes the diversion program. Sentencing and final judgment are withheld and are imposed only if the person fails to complete the program. *See Commonwealth v. Derringer*, 386 S.W.3d 123, 126 (Ky. 2012). Thus, the statutory system

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[5] A "criminal offense against a minor" is defined in KRS 17.500(3) and a "sex crime" is defined in KRS 17.500(8).

[6] For convenience and for sake of discussion, the Commonwealth uses the term *conviction* for the major portion of this brief as if it did not include at least some juvenile adjudications of delinquency. Legislative history suggests otherwise if the Court finds it must resort to that interpretive aid. *See* Subsection F, *infra*.

again requires registration even though a judgment of conviction has not been imposed.

Most relevant to this appeal is that portion of the statutory definition of *registrant* which includes "[a]ny person required to register under KRS 17.510 ... ." KRS 17.500(5)(b). In turn, KRS 17.510 states in relevant part:

> (6) Any person who has been convicted in a court of *any* state or territory, a court of the United States, or a similar conviction from a court of competent jurisdiction in any other country, or a court martial of the United States Armed Forces of a sex crime or criminal offense against a victim who is a minor and who has been notified of the duty to register by that state, territory, or court, or who has been committed as a sexually violent predator under the laws of another state, laws of a territory, or federal laws, or has a similar conviction from a court of competent jurisdiction in any other country, shall comply with the registration requirement of this section ...
>
> (7) If a person is *required to register under federal law or the laws of another state or territory*, or if the person has been convicted of an offense under the laws of another state or territory that would require registration if committed in this Commonwealth, *that person upon changing residence from the other state or territory of the United States to the Commonwealth* or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section ...

KRS 17.510 (emphasis added).

"[T]he cardinal rule of statutory construction is to ascertain and give effect the intent of the legislature." *Beshear v. Haydon Bridge Co., Inc.*, 304 S.W.3d 682, 703 (Ky. 2010) *quoting Travelers Indem. Co. v. Reker*, 100 S.W.3d 756, 763 (Ky. 2003). It does so by giving plain meaning to the words of the statute. *Lewis v. Jackson Energy Co-op. Corp.*, 189 S.W.3d 87, 94 (Ky. 2005). A reviewing court is "not at liberty to add or subtract from the legislative enactment ...." *Department of Revenue, Finance and Admin. Cabinet v. Wyrick*, 323 S.W.3d 710, 713 (Ky. 2010). When the language of a statute is clear and unambiguous, "there is no room for construction or interpretation and the statute must be given its effect as written." *Wilson v. City of Cent. City*, 372 S.W.3d at 867 (Ky. 2012) (citation and internal quotation marks omitted); *see also Kentucky Unemployment Ins. Comm'n v. Cecil*, 381 S.W.3d 238, 247 (Ky. 2012).

By its plain language, the first portion of KRS 17.510(6) applies to someone who commits specific types of crimes in *any* state or under federal law. A Kentucky resident, for example, who commits a qualifying offense in Indiana and is required to register as a sex offender in Kentucky. Subsection (7), on the other hand, does not look to a conviction or commission of a crime. It looks to to whether there is a reciprocal requirement of another jurisdiction to register. As discussed further in subsection F, *infra*, this prevents

Kentucky from becoming a magnet for at least some types of sex offenders from other states.

Other states have construed similar statutes to require registration because a person was required to register in another state. In *Turner v. State* the state of Michigan required Turner to register as a sex offender even though he was a juvenile offender. 937 So. 2d 1184 (Fla. App. 2006). The Florida Court of Appeals agreed that Turner would not have been required to register if adjudicated a juvenile offender in Florida, but that he was nevertheless required to register because he was required to register when living in Michigan. *Id.* at 1185. Other jurisdictions also require sex offender registration in their jurisdiction when a person was required to register in another state by the laws of the other state. *See, e.g., Herron v. State*, 918 N.E.2d 682, 683-84 (Ind. App. 2009) (irrelevant that Arizona offense was not substantially equivalent to any offense in Indiana); *Flowers v. State*, 213 S.W.3d 648, 651 (Ark. App. 2005) (did not matter that offense would not be a crime in Arkansas); *Moore v. State*, 992 So. 2d 862, 864 (Fla.. App. 2008); *In re Borden*, 718 S.E.2d 683, 684 (N.C. App. 2011).

B. There is no conflict between KSORA and KRS 635.40 but the Court need not resolve any perceived conflict because the statutes are not *in pari materia.*

Appellant tempts the Court to stray from the clear and unambiguous roadway to the Emerald City by claiming statutory conflict. KRS 635.040

provides that "[n]o adjudication by a juvenile session of District Court shall be deemed a conviction, nor shall such adjudication operate to impose any of the civil disabilities ordinarily resulting from a criminal conviction ...." Appellant obfuscates the fact that his Michigan adjudication as a delinquent did not arise from a juvenile session of a Kentucky District Court and, therefore, KRS 635.040 does not conflict with KRS 17.510(7).[7]

The General Assembly could have easily excluded out-of-state juvenile adjudications from the registration requirement under KRS 17.500(5)(b) and KRS 17.510(7) if it had wanted to do so. The inclusion in KRS 17.500(5)(a) of youthful offenders under KRS 600.020 implies the exclusion of Kentucky juvenile adjudications. There is no such implication in KRS 17.500(b) or 17.510(7) because those sections do not mention either out-of-state juvenile adjudications or another state's equivalent youthful offender laws. *See Fox v. Grayson*, 317 S.W.3d 1, 8 (Ky.2010) (applying the statutory construction rule

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[7] If Appellant had been charged in Kentucky, he would have met the requirement for transfer to circuit court pursuant to KRS 635.020 because he was 16 years old when the Michigan petition was initiated and the original Michigan charge carried a maximum sentence of life imprisonment. This would have met the requirement under KRS 635.020(2) that the offender be at least 14 years old and be charged with a Class A or B felony. Even the amended charge (criminal sexual conduct in the third degree) would likely have qualified since it carried a 15 year maximum penalty. Such an analysis is unnecessary because KRS 17.510(7) seeks to avoid the thorny problem of comparing statutes from other states to Kentucky's and simply look to see if a person must register in the other state.

of *expressio unius est exclusio alterius* — the mention of one thing implies the exclusion of another).

As previously noted, KRS 17.510(7) does not require a conviction to trigger the registration requirement. Furthermore, registration itself "does 'not constitute a disability or restraint.'" *Buck v. Commonwealth*, 308 S.W.3d 661, 665 (Ky. 2010) *quoting Hyatt v. Commonwealth*, 72 S.W.3d 566, 572 (Ky. 2002). In *Commonwealth v. Baker*, the only disability the Court referred to was the restriction on where registrants may live. 295 S.W.3d 437, 445 (Ky. 2009).

Even if the KSORA and KRS 640.035 conflict, the Court need not harmonize the two provisions:

> Statutes are *in pari materia*—pertain to the same subject matter—when they relate to the same person or thing, to the same class of persons or things, or have the same purpose or object. Characterization of the object or purpose is more important than characterization of subject matter to determine whether different statutes are closely enough related to justify interpreting one in light of the other. Courts routinely find that several acts treating the same subject, but having different objects, are not *in pari materia*.

2B *Sutherland Statutory Construction* § 51:3 (7th ed.) (citations omitted).

Here the two statutes at issue deal with different subjects and have different objects. KSORA, is a civil, nonpunitive, regulatory scheme aimed at

protecting the public. *Buck v. Commonwealth*, 308 S.W.3d 661, 665 (Ky. 2010). The Kentucky Unified Juvenile Code has the goal of strengthening family life for the protection and care of children while advancing the principles of accountability and maintaining public safety. *See* KRS 600.010.

This Court's predecessor court refused to consider two statutes to be *in pari materia* even when they were both passed in the same legislative session and "both related to the general subject of revenue and taxation." *Commonwealth v. Alford's Ex'r*, 187 Ky. 106, 218 S.W. 721, 722-23 (1920). Exemptions in a chapter dealing with specific types of property subject to taxation were inapplicable in a separate chapter dealing with taxation of bank deposits. *Id.* In another case, the Court of Appeals held two statutes dealing with expungement were not inconsistent and therefore would not be considered *in pari materia*. *Commonwealth v. Davis*, 400 S.W.3d 286, 289 (Ky. Ct. App. 2013). One statute dealt with expungement of convictions for misdemeanors and violations while the other dealt with charges dismissed with prejudice. *Id.* The expungement statute on the dismissed charges applied only if there were "current charges or proceedings pending relating to the matter for which the expungement is sought ... ." *Id.., quoting* KRS 431.076. Since there was a civil "proceeding" related to the dismissed criminal charge, then expungement was inappropriate. *Id.*

KRS 635.040 and KRS 17.510(7) deal with different subject matters

and have different objects. Furthermore, they do not conflict. Therefore, the Court should not try to construe the two statutes as if they were *in pari materia*.

C. The rule of lentity does not apply because the statute is unambiguous and the registration requirement is not a penal statute.

Appellant asks the Court to apply the rule of lenity but the rule is inapplicable for two reasons — it is used only for penal statutes and only where the penal statute has ambiguities which cannot be resolved through normal statutory principles of construction. As this Court described it:

> [T]he rule of lenity is "often invoked by criminal defendants seeking a more favorable construction of a statute"; and the rule "applies only if the statute at issue is genuinely ambiguous and even then only if the ambiguity cannot be resolved by resort to the other traditional rules of construction."

Crouch v. Commonwealth, 323 S.W.3d 668, 675 (Ky. 2010). Here, the statute is clear and unambiguous. If the Court determines otherwise, it can resolve any conflicts or ambiguities through normal rules of statutory construction.

Moreover, the rule of lenity applies only to penal statutes. *See Crouch, supra*; *White v. Commonwealth*, 178 S.W.3d 470, 484 (Ky. 2005). The registration requirements of KSORA are civil and nonpunitive. *Buck v. Commonwealth*, 308 S.W.3d 661, 665 (Ky. 2010). The requirement to register and maintain his address with the registry are not penal statutes. Appellant

knew he had to register and did so. He complied with the law for some period of time before he failed to update the registry with his address.

D. Even if the Court determines there is a conflict which must be resolved, that conflict must be resolved in favor of KSORA because it is both more specific and was enacted later than KRS 640.035.

Even if the two statutes conflict and this Court determines it must resolve the conflict, the provisions of KRS 17.510(7) would control because the General Assembly passed it after KRS 635.040. "[I]t is a well-known canon of statutory interpretation that the later controls the former when two statutes appear to be in conflict. *Osborne v. Keeney*, 399 S.W.3d 1, 22 (Ky. 2012). KRS 635.040 was enacted in 1986 and has remained unchanged. 1986 Ky. Laws. Ch. 423 § 127. KSORA was first enacted in 1994. 1994 Ky. Laws Ch. 392 (S.B.43). The legislature amended KSORA in 1998 and added KRS 17.510(7). 1998 Ky. Laws Ch. 606 § 138 (H.B. 455).[8]

In addition, the comprehensive regulatory framework established by KSORA is a more specific statute on the subject of who is required to register than the very general provisions of KRS 635.040. That statute never even

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[8] The 1998 Act required registration in Kentucky "[i]f a person is required to register as a sex offender under federal law or the laws of another state or territory ...." 1998 Ky. Laws Ch. 606 § 138 (H.B. 455). In 2000, the General Assembly deleted the words "as a sex offender" so that KRS 17.510(7) began, "If a person is required to register under federal law or the laws of another state or territory ..." then that person would be required to register in Kentucky. 2000 Ky. Laws. Ch. 401 § 16 (S.B. 263). That phrase has remained unchanged through subsequent amendments and re-enactments of KRS 17.510.

contemplated a future registration system for sex offenders. The more specific statute prevails where there is conflict. *Lewis v. Jackson Energy Co-op. Corp.*, 189 S.W.3d 87, 94 (Ky. 2005).

E. This Court gives no weight to the title given a statute by the reviser of statutes.

Appellant incorrectly states that KSORA, KRS 17.500 through 17.580 is entitled "Registration system for adults who have committed sex crimes or crimes against minors; persons required to register; manner of registration; penalties; notifications of violations required." Brief for Appellant, p. 5, *citing* KRS 17.510. Appellant states this is not part of the law but "reflects the opinion of the statute reviser," implying that the reviser's opinion carries weight. Brief, p. 5 at n.13, *citing Arciero v. Hager*, 397 S.W.2d 50, 53 (Ky. 1965) *overruled on other grounds by Hicks v. Enlow*, 764 S.W.2d 68 (Ky. 1989)

Actually, the correct title of the Act is the "Sex Offender Registration Act." KRS 17.540; 1994 Ky. Laws. Ch. 392 § 5.[9] Appellant's inaccurate title of the Act is actually just the title of the section appearing at KRS 17.510 given by the reviser of statutes. Appellant thus makes the very error about which *Arciero* laments:

> Appellant points to the heading of KRS 199.520 as the title of the Act. However, that is not the Act's

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[9] The Act was commonly known as "Megan's Law." *Hyatt v. Commonwealth*, 72 S.W.3d 566, 569 (Ky. 2002).

> title, it is merely the caption as prepared by the statute reviser. KRS 446.140. Hence there is no merit in the contention as presented.

Arciero, *supra* at 53; *see also Crouch v. Commonwealth*, 323 S.W.3d 668, 675 (Ky. 2010) ("[T]he Court of Appeals erred in *Stump* when it relied upon the title of a statute that was not part of the legislative enactment.").

F. Legislative history and public policy supports the Commonwealth's interpretation.

The General Assembly first enacted KSORA, also known as "Megan's Law," in 1994 and required certain sex offenders to register with the state. *Moffitt v. Commonwealth*, 360 S.W.3d 247, 250 (Ky. App. 2012). Congress passed the federal Jacob Wetterling Act in 1994 and amended it in 1996. *Moffitt* at 250. The Act required states to enact state registries and provided for forfeiture of federal dollars if they did not do so. *Id.* Congress next passed the Adam Walsh Child Protection and Safety Act in 2006 which included, modified, and expanded existing federal law. Pub.L. 109-248, Title 1, § 102 (see note to 42 U.S.C.A. 16901).[10] That Act continued financial incentives for states to "substantially implement" federal guidelines. *See, e.g.*, 42 U.S.C.A. § 16925(a). As explained by the U.S. Supreme Court:

> The new federal Act reflects Congress' awareness that pre-Act registration law consisted of a patchwork of federal and 50 individual state

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[10] A portion of the Act is is also known as the "Sex Offender Registration and Notification Act."

> registration systems. *See* 73 Fed.Reg. 38045 (2008). The Act seeks to make those systems more uniform and effective. It does so by repealing several earlier federal laws that also (but less effectively) sought uniformity; by setting forth comprehensive registration-system standards; by making federal funding contingent on States' bringing their systems into compliance with those standards; by requiring both state and federal sex offenders to register with relevant jurisdictions (and to keep registration information current); and by creating federal criminal sanctions applicable to those who violate the Act's registration requirements.

Reynolds v. United States, 132 S. Ct. 975, 978, 181 L. Ed. 2d 935 (2012).

The 2006 Act, including its financial incentives to states, sought to close the loopholes and gaps in state-based registration systems which allowed up to one-fifth (100,000) of sex offenders to be "missing" from state registration due to interstate travel. *United States v. Coleman*, 675 F.3d 615, 618 (6th Cir. 2012) (citations omitted). Kentucky's version of SORA should be interpreted in the light of federal law and its incentives. Moreover, if Kentucky did not require registration for those who were required to register in another sate, then Commonwealth would soon become a magnet for sex offenders.

For discussion purposes, this brief has used the terms "conviction" and "convicted" as if they required formal judgment and sentencing in an adult court. The term "convicted" is not defined in KSORA. Since the trial court did

not rely upon the "convicted" language in KRS 17.510(6), it is not necessary to decide what that means. However, under federal registration laws, the term "conviction" includes a juvenile delinquent adjudication if the offender is at least14 years old and the offense is "comparable to or more severe than aggravated sexual abuse (as described in section 2241 of title 18, United States Code) ...." 42 U.S.C.A. § 16911(8). Further, as the Commonwealth previously noted, those on pretrial diversion in Kentucky are required to register as sex offenders even though judgment has been withheld. Only when they complete the program and the charges dismissed do they come off the registry. Thus, the terms "convicted" and "conviction" are not necessarily limited to final judgments of convictions entered in an "adult" court.

Appellant notes that the term "sexual offender" in KRS 17.500(9) refers to "any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime ...." *Sexual offenders* are simply a subset of those required to register. For example, one who kidnaps a minor must register even though kidnapping is not a "sex crime." *Ladriere v. Commonwealth*, 329 S.W.3d 278, 281 (Ky. 2010). Such a person is not a"sexual offender." *Moffitt v. Commonwealth*, 360 S.W.3d 247, 257 (Ky. App. 2012). A "sexually violent predator" must register in Kentucky even though that term is defined in terms of a civil commitment, rather than imposition of a final judgment in a criminal case. KRS 17.500(10); KRS 17.500(6).

Indeed, the fact that KRS 17.520(5) pegs the period of registration to

that "based on the conviction in the foreign jurisdiction" shows the term *conviction* is not restricted in all cases to the imposition of a final judgment in a criminal case. The term *conviction*, in this instance, simply refers to the order which triggers the registration requirement. Otherwise, a "sexually violent predator" from another state would not have to register in Kentucky. Here, the Michigan juvenile adjudication is the "conviction" which determines the length of registration in Kentucky.

In *The Wizard of Oz*, Dorothy and her companions had to overcome obstacles like fireballs and poppies placed in their pathway to the Emerald City. This Court can avoid such obstacles in its journey to correct statutory construction by relying on the plain language of the statutes. If it cannot avoid such obstacles, it can overcome them by application of settled rules of statutory interpretation and consideration of legislative history. When viewed in light of the legislative history and the purposes of KSORA, there is no doubt the General Assembly drafted KRS 17.510(7) with the intent of requiring those who register in other states to register in Kentucky when they move here. That is true even if a person would not have been required to register if committing the act in Kentucky.

CONCLUSION

For all of the foregoing reasons, this Court should affirm the opinion of the Court of Appeals and should affirm Appellant's conviction.

Respectfully Submitted

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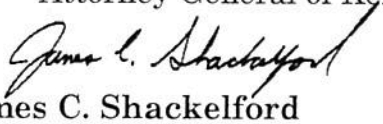

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